

REMARKS

Claims 1-11 remain pending in this application. Reconsideration and allowance of the application are respectfully requested.

The Office Action fails to establish that claims 1-2 and 8-9 are unpatentable under 35 USC §103(a) over "Yoneyama" (US patent number 5,801,860 to Yoneyama) in view of "Yoshida" (US patent number 6,480,308 to Yoshida et al.) and "Helms" (US patent number 6,643,466 to Helms et al.). The rejection is respectfully traversed because the Office Action fails to show that all the limitations are suggested by the references, fails to provide a proper motivation for modifying the teachings of Yoneyama with teachings of Yoshida and Helms, and fails to show that the combination could be made with a reasonable likelihood of success.

Independent claims 1, 8, and 9 include limitations of and related to each message in a sequence including an output-power code that indicates an output power level used by the transmitter to transmit the message, and each transmitter using increasing power levels to transmit each power-level message in the sequence. The combination of references neither shows nor suggests transmission of an output power code indicative of an output power level in the same message for which the power level is set.

Helms' FIGs. 1, 2, and 3 show and describe a system in which power information about an output laser beam is received and transmitted via a channel other than the channel of the output laser beam (col. 4, l. 1-15). Thus, Helms' arrangement teaches an extra channel and requires extra circuitry to accomplish the communication of power information. Thus, the limitations of the claims are not shown to be taught by the Yoneyama-Yoshida-Helms combination.

The alleged motivation for modifying the Yoneyama-Yoshida combination with Helms is based on hindsight and improper. The alleged motivation states that "it would have been obvious ... to send transmitter power level in the sequence of messages with increasing power level, as taught by Helms, in the modified power level setting method of Yoneyama and Yoshida et. al. because it allows the correlation between the transmitter power level and received power level so that the transmitter can correctly set the power level."

The alleged motivation is improper because no evidence is provided to indicate that the Yoneyama-Yoshida combination unsatisfactorily correlates feedback information with a power level. Furthermore, the Office Action alleges a characteristic of the Yoneyama-Yoshida combination being a “delay in receiving feedback power information from the remote receiver such that at a time a feedback power information message is received, the transmitter may have already transmitted at a higher power level.” However, no evidence is provided to indicate how this alleged delay would be reduced by Helms. Presumably, Yoshida’s test pattern comparisons and feedback do not introduce any more delay than would Helms’ system.

The alleged motivation for modifying Yoneyama with Yoshida is conclusory and improper. The alleged motivation states that “one of ordinary skill in the art would have been motivated to combine the teaching of Yoshida et al. with the power level setting method of Yoneyama because the method of Yoshida et al. avoids sending excessive optical power ... and to send a sequence of messages with increasing power level for finding an optimal power level avoids sending excessive optical power.” The alleged motivation is improper because there is no apparent evidence nor is any provided to indicate that Yoneyama’s system and feedback section 80 do not adequately address power level setting.

Claim 2 depends from claim 1 and is patentable over the Yoneyama-Yoshida-Helms combination for at least the reasons set forth above.

The rejection of claims 1-2 and 8-9 over the Yoneyama-Yoshida-Helms combination should be withdrawn because the Office Action fails to show all the limitations are suggested by the combination, fails to provide a proper motivation for combining the references, and fails to show that the combination could be made with a reasonable likelihood of success.

The Office Action fails to show that claim 3 is unpatentable under 35 USC §103(a) over the Yoneyama-Yoshida-Helms combination as applied to claims 1-2 and 8-9 in view of "Suzuki" (US patent number 5,517,608 to Suzuki et al.). The rejection is respectfully traversed because the Office Action fails to show that all the limitations are suggested by the references, fails to provide a proper motivation for modifying the teachings of the Yoneyama-Yoshida-Helms combination with teachings of Suzuki, and fails to show that the combination could be made with a reasonable likelihood of success.

Claim 3 includes limitations of and related to setting the selected power level a selected quantity above the power level at which the power-level message is first received. These limitations are clearly neither shown nor suggested by Suzuki. Suzuki teaches that a first message is sent at the maximum light emission intensity, and a response message is fed back to the transmitter (col. 5, l. 18). Suzuki then performs a binary search method in adjusting the light emission intensity (col. 5, l. 27). Thus, Suzuki's first message received is the one transmitted at the maximum light intensity, and there would be no reason for Suzuki to set the power level above this first maximum light emission intensity. Therefore, the limitations of 3 are not shown to be suggested by the Yoneyama-Yoshida-Helms-Suzuki combination.

The alleged motivation for combining Suzuki with the Yoneyama-Yoshida-Helms combination is conclusory and improper. The alleged motivation states that "it would have been obvious ... to set power level slightly higher than value determined by a test, as taught by Suzuki et al., in the modified power level setting method of Yoneyama, Yoshida et al. and Helms et al. because the approach of Suzuki et al. gives a margin for power level variation due to temperature and aging of laser diode." No evidence is provided to indicate that the Yoneyama-Yoshida-Helms combination does not provide any margin for power level variation due to temperature and aging of laser diode. Therefore, the alleged motivation is simply an improper hindsight-based reconstruction of the invention.

The rejection of claim 3 over the Yoneyama-Yoshida-Helms-Suzuki combination should be withdrawn because the Office Action fails to show all the limitations are suggested by the combination, fails to provide a proper motivation for combining the references, and fails to show that the combination could be made with a reasonable likelihood of success.

The Office Action fails to establish that claims 4-6 and 10-11 are unpatentable under 35 USC §103(a) over the Yoneyama-Yoshida-Helms combination, as applied to claims 1-2 and 8-9, in view of "Batey" (US patent number 6,104,512 to Batey, Jr. et al.). The rejection is respectfully traversed because the Office Action fails to show that all the limitations are suggested by the references, fails to provide a proper motivation for modifying the teachings of the Yoneyama-Yoshida-Helms combination with teachings of Batey, and fails to show that the combination could be made with a reasonable likelihood of success.

Claim 4 includes limitations of and related to transmitting, in response to the receiver-initialization complete signal, a transmit-initialization-complete message from the local transmitter to the remote receiver for setting the output power level of the remote transmitter. The transmit-initialization-complete message includes the output-power code from the satisfactory power-level message. It is respectfully submitted that neither Batey nor the Yoneyama-Yoshida-Helms combination teaches or suggests these limitations. For example, the Office Action fails to provide any suggestion of a transmit-initialization-complete message including the output-power code from the satisfactory power-level message. Batey simply shows an ACK signal, and no teachings of the Yoneyama-Yoshida-Helms combination are cited or appear to suggest these limitations. Therefore, the Office Action fails to show that the limitations of claim 4 are suggested by the prior art.

Claims 5 and 6 depend from claim 4 and include further limitations that are not specifically addressed by the Office Action and do not appear to be suggested by the Yoneyama-Yoshida-Helms-Batey combination.

Claims 10 and 11 further limit the circuit arrangement of claim 9 and include limitations that are similar to those of claim 4. Thus, claims 10 and 11 are not shown to be unpatentable over the Yoneyama-Yoshida-Helms-Batey combination.

The alleged motivation for combining teachings of Batey with the Yoneyama-Yoshida-Helms combination is conclusory and improper. The alleged motivation state that "it would have been obvious ... to send acknowledgement message to transmitter from remote receiver to indicate success of power level search and to store search result, as taught by Batey, Jr. et al., in the modified power level setting method of Yoneyama, Yoshida et al. and Helms et al. because such procedure

indicates the success of power level search algorithm and stores the outcome of the search algorithm.” This alleged motivation simply repeats the function of Batey. There is no showing that the Yoneyama-Yoshida-Helms combination does not already send a comparable acknowledgement, nor is there any evidence to indicate that the feedback mechanisms of the Yoneyama-Yoshida-Helms combination are in any way unsatisfactory. Therefore, the alleged motivation is simply a conclusion and an improper hindsight-based reconstruction of the invention.

The rejection of claims 4-6 and 10-11 over the Yoneyama-Yoshida-Helms–Batey combination should be withdrawn because the Office Action fails to show all the limitations are suggested by the combination, fails to provide a proper motivation for combining the references, and fails to show that the combination could be made with a reasonable likelihood of success.


The Office Action fails to show that claim 7 is unpatentable under 35 USC §103(a) over the Yoneyama-Yoshida-Helms-Batey combination as applied to claims 4-6 and 10-11 in view of Suzuki. The rejection is respectfully traversed because the Office Action fails to show that all the limitations are suggested by the references, fails to provide a proper motivation for modifying the teachings of the Yoneyama-Yoshida-Helms-Batey combination with teachings of Suzuki, and fails to show that the combination could be made with a reasonable likelihood of success.

The Office Action fails to show that Suzuki suggests the limitations of claim 7 for at least the reasons set forth above for claim 4. The alleged motivation for combining Suzuki with the Yoneyama-Yoshida-Helms-Batey combination is also deficient for at least the reasons set forth above for claim 4. Therefore, the rejection of claim 7 over the Yoneyama-Yoshida-Helms–Batey-Suzuki combination should be withdrawn because the Office Action fails to show all the limitations are suggested by the combination, fails to provide a proper motivation for combining the references, and fails to show that the combination could be made with a reasonable likelihood of success.

Withdrawal of the rejections and reconsideration of the claims are respectfully requested in view of the remarks set forth above. No extension of time is believed to be necessary for consideration of this response. However, if an extension of time is required, please consider this a petition for a sufficient number of months for consideration of this response. If there are any additional fees in connection with this response, please charge Deposit Account No. 50-0996 (LMCO.010PA).

Respectfully submitted,

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